



WESTFIELD-WASHINGTON
BOARD OF ZONING APPEALS

November 11, 2014

1411-VS-13

Exhibit 1

Petition Number: 1411-VS-13

Subject Site Address: 240 Creekwood Drive (the "Property")

Petitioner: Ellen K. and Ronald L. Williams (the "Petitioner")

Request: The petitioner is requesting a Variance of Development Standard from the City of Westfield-Washington Township Unified Development Ordinance (the "UDO") for the property commonly known as 240 Creekwood Drive, Westfield, Indiana 46074. The request is to allow a reduction in the Side Yard Minimum Building Setback Line (*Article 4.6(E)(2)*) from ten (10) feet to three (3) feet.

Current Zoning: SF-3 (Single-Family Medium Density) District

Current Land Use: Residential

Approximate Acreage: 0.28 acres +/-

Exhibits:

1. Staff Report
2. Location Map
3. Existing Conditions Exhibit
4. Petitioner's Site Plan
5. Petitioner's Statement of Intent

Staff Reviewer: Jeffrey M. Lauer, Associate Planner

Petition History

This petition will receive a public hearing at the November 11, 2014, Board of Zoning Appeals meeting.

Analysis

Location: The subject property is 0.28 acres +/- in size and located on the north side of Creekwood Drive in the Newby's Westfield Heights subdivision. The Property is zoned the SF3: Single-Family Medium Density District ("SF-3"). The Property currently contains a single family home occupied by the Petitioner. The surrounding properties are zoned SF-3. The surrounding properties are improved with single-family residential uses.

Variance Request: The Petitioner has filed this variance request to permit the construction of a garage and carport structure at the terminus of their existing driveway (see Petitioner's Statement of Intent at



Exhibit 5), as generally shown on the Site Plan Exhibit (see **Exhibit 3**). As depicted on the Location Map (see **Exhibit 2**) and Existing Conditions Exhibit (see **Exhibit 4**), the site's existing conditions and constraints (e.g., existing home, existing driveway location, proximity of neighboring property, existing trees and an existing drainage channel) restrict the potential locations to construct a garage. As such, the Petitioner is requesting a variance from the Side Yard Minimum Building Setback Line standard to allow the garage to be located as shown on the Site Plan Exhibit, utilizing the existing driveway.

Side Yard Minimum Building Setback Line (Article 4.6(E)(2)): The standard for the Side Yard¹ Minimum Building Setback Line² in the SF-3 District is ten (10) feet. As depicted on the Site Plan Exhibit, the existing home³ is located approximately seventeen feet, seven inches (17'-7") from the adjacent property to the east. The Petitioner is requesting a Side Yard Minimum Building Setback Line of three (3) feet from the adjacent property line to the east.

Additional Consideration: The City Council will be considering the adoption of an amendment to the UDO on November 10, 2014, which was forwarded to the Council by the Plan Commission with a favorable recommendation for adoption. The proposed amendment includes a standard applicable to carports, which states: "[c]arports shall be consistent in design, appearance and materials with the Principal Building⁴. Carports for Single-family Dwellings shall be attached to the Principal Building."

Comprehensive Plan: The Westfield-Washington Township Comprehensive Plan identifies this Property within the "Downtown"⁵ land use classification. Among other uses, the Comprehensive Plan⁶ notes this area includes single-family uses; commercial; offices; retail; parks, plazas, or other open spaces.

The Comprehensive Plan contemplates the Downtown area will, where and when possible, be redeveloped to encourage a denser, urban form.

¹ The UDO defines "Side Yard" as "[a] yard extending across the full depth of the Lot, the depth of which is the least distance between the Side Lot Line and the Side Yard Building Setback Line."

² The UDO defines "Building Setback Line" as "[a] line parallel to a Right-of-way line, edge of a stream, or other Lot Line established on a parcel of land or Lot for the purpose of prohibiting construction of a building or structure in the area between such line and the Right-of-way, stream bank, or other Lot Line."

³ The existing home was constructed in 1968 according to the Hamilton County Assessor's office.

⁴ The UDO defines "Principal Building" as "[a] building in which is conducted the main or primary use of the Lot on which said building is located. Where a substantial portion of an ancillary building is attached to the Principal Building in a substantial manner, as by a roof, then such ancillary building shall be counted as a part of the Principal Building and not as an Accessory Building.

⁵ Westfield-Washington Township Comprehensive Plan, Land Use Concept Map (pg. 24).

⁶ Westfield-Washington Township Comprehensive Plan, Downtown (pg. 68).



Procedural

Public Notice: The Board of Zoning Appeals is required to hold a public hearing on its consideration of a Variance of Development Standards. This petition is scheduled to receive its public hearing at the November 11, 2014, Board of Zoning Appeals meeting. Notice of the public hearing was properly advertised in accordance with Indiana law and the Board of Zoning Appeals' Rules of Procedure.

Variance of Development Standard: The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the Unified Development Ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community;
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and
3. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.

Recommendation

If the Board finds the application of the terms of the zoning ordinance would result in practical difficulties in the use of the Property and adjacent property values will not be affected in a substantially adverse manner, then the Department recommends approving 1411-VS-13 with the following findings:

Recommended Findings of Fact: A Variance of Use may be approved under Indiana Code § 36-7-4-918.4 and the Westfield-Washington Township Unified Development Ordinance (*Article 10.14(G)(2)*) only upon a determination that:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

Finding: It is unlikely that approving the requested variance(s) would be injurious to the public health, safety, morals, and general welfare of the community because the SF-3 District permits the existing residential use and the resulting garage structure will otherwise comply with applicable standards.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*



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Finding: It is unlikely the use and value of adjacent property will be affected in a substantially adverse manner. The proposed variance should not have a negative impact on surrounding properties because the approval of the variance will allow for the improvement of the Property in a manner substantially consistent with the quality and character of the surrounding area and Comprehensive Plan.

3. *The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

Finding: Strict adherence to the zoning ordinance would result in the inability to improve the Property, as proposed, in accordance with the Zoning Ordinance. The Petitioner's rear yard contains a low point and storm water drainage channel. Strict adherence would potentially restrict or constrict the flow and proper drainage of water. The use is permitted by the Zoning Ordinance and the proposed improvements and parcel would otherwise be permitted and comply with the Zoning Ordinance.